

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

MICHAEL DEWAYNE ROBERTS, #143289,)
)
Plaintiff,)
)
vs.) CIVIL ACTION NO. 3:08cv599-WHA
) (WO)
JAY JONES, et al.,)
)
Defendants.)

ORDER

This case is before the court on the Recommendation of the Magistrate Judge (Doc. #14), filed on September 19, 2008, the Supplemental Recommendation of the Magistrate Judge (Doc. #18), filed on October 2, 2008, and the objections to both (Docs. #17 and 21), filed by the Plaintiff.

Upon an independent evaluation and *de novo* review of the file, the court finds the objections to be without merit, and they hereby overruled.

The court agrees with the Magistrate Judge that the Complaint filed in this case is barred by the statute of limitations. Plaintiff's contention that he was entitled to equitable tolling of the limitation period until he filed a "verified claim for damages" on the Defendants on October 10, 2006, is without merit. Also, while the Plaintiff asserts in his latest objections that he was arrested in March, 2008, and had surgeries in December, 2005, and April, 2006, he has not demonstrated how these events prevented him from filing his § 1983 claim within the applicable two-year limitation period, much less how such circumstances were extraordinary as to entitle

him to equitable tolling. Therefore, the court adopts the Recommendation of the Magistrate Judge and the Supplemental Recommendation of the Magistrate Judge, and it is hereby ORDERED that this case is DISMISSED with prejudice prior to service of process. DONE this 31st day of October, 2008.

/s/ W. Harold Albritton

W. HAROLD ALBRITTON
SENIOR UNITED STATES DISTRICT JUDGE